

FILED

United States District Court

EASTERN DISTRICT OF OKLAHOMA

APR 30 2013

PATRICK KEANEY
Clerk, U.S. District CourtBy _____
Deputy Clerk**In the Matter of the Search of:**

Yahoo! account irishdrgn@yahoo.com and related
 Yahoo! accounts/user names to include:
 thekelticdruoid77, tr4nqu1ll1tys_dr4g0n,
 celticwolfirishdrgn, and havocsdragon, stored at
 premises of Yahoo! Inc. 701 First Avenue,
 Sunnyvale, California 94089,

CASE NUMBER:

13 - MJ - 035 - KEW

APPLICATION FOR SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that there is now concealed on the following person or property located in the EASTERN District of

OKLAHOMA (identify the person or describe property to be searched and give its location):

SEE ATTACHMENTS "A"

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized):

SEE ATTACHMENT "B"

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of Title 18, United States Code, Section(s) 2252(a)(2) and 2252A, and the application is based on these facts: See Attached Affidavit of Department of Homeland Security, Special Agent Michael Lelecas

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


 Michael Lelecas
 Special Agent
 Department of Homeland Security

Sworn to before me and signed in my presence.

Date: April 30, 2013


 Judge's signature

KIMBERLY E. WEST
 UNITED STATES MAGISTRATE JUDGE

City and state: Muskogee, Oklahoma

Printed name and title

AFFIDAVIT

I, Michael Lelecas, being duly sworn, do hereby depose and state:

1. I am a special agent with the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), assigned to the Resident Agent in Charge (RAC) office at Tulsa, Oklahoma. Prior to this appointment, I was a Special Agent or Inspector with the Immigration and Naturalization Service (INS) since April 1996. As part of my duties as an HSI agent, I investigate criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt, and possession of child pornography, in violation of 18 U.S.C §§ 2252(a)(2) and 2252A.
2. I make this affidavit in support of an application for a search warrant for information associated with an account that is stored at premises owned, maintained, controlled, or operated by Yahoo, an e-mail provider owned by Yahoo Inc., and located at 701 First Avenue, Sunnyvale, California 94089. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Yahoo Inc. to disclose to the government records and other information in its possession pertaining to the subscriber or customer associated with the accounts, including the contents of communications. The information to be searched is described in Attachment A.
3. Because the purpose of this affidavit is to establish probable cause, not every relevant fact known to me, or to other investigators, is included herein. Rather, only those facts necessary to establish probable cause will be discussed. This affidavit is derived both from my personal knowledge, information obtained from other law enforcement officers, civilians, and the review of evidence obtained during the course of this investigation. As a result of the information obtained herein over the course of the investigation, I believe there is sufficient probable cause for the requested warrant.

FACTS SUPPORTING PROBABLE CAUSE

4. The target of this investigation, DAVID ANTHONY BAKER (Hereinafter: BAKER) is a registered sex offender and admitted manufacturer, possessor and distributor of child pornography.
5. On or about September 5, 2012, the Affiant learned about information received by the Homeland Security Investigations Cyber Crime Center (C3), Child Exploitation Investigations Unit (CEIU). C3/CEIU received a child exploitation regarding Image Source {IMGSRC) user "cltrdnck". "cltrdnck" posted pictures and comments on the Russian image board IMGSRC indicating the exchange of images of child exploitation. "cltrdnck" posted a series of images of a girl whom he indicates is his ten year-old niece. "cltrdnck" self-registered the IMGSRC account on July 9, 2011, linking the account to the email address irishdrn@yahoo.com.

6. In response to an administrative summons issued on July 31, 2012, Yahoo, Inc. indicated on August 1, 2012 that the email account irishdrgn@yahoo.com was registered on March 24, 2001 to "David Baker" of Howe, OK. The account is/was associated with the phone number (918) 208-8710. The alternate IDs associated with the account are: [thekelticdruid77](#), [tr4nquill1tys_dr4g0n](#), [celticwolfirishdrgn](#), and [havocsdragon](#).
7. On February 7, 2013, your Affiant conducted an internet search and identified a Flickr from YAHOO! account for [irishdrgn](#). The Yahoo! response to the administrative summons identified Flickr as one of the properties used by the login name "irishdrgn". associated with David Baker. Flickr is an online image hosting and video hosting website where users can upload and share photographs and videos to their profile page. [irishdrgn](#)'s Flickr page contained two photographs appearing to contain the image of David Baker.
8. On March 1, 2013, an HSI TFO conducted Google internet searches of identities associated with David Baker's Yahoo! Account, obtained from the service of the administrative subpoena. One of BAKER's other listed identities, "celticwolfirishdrgn", yielded returns of images posted to [imgsrc.ru](#) under the albums of "CELTICRDNCK", registered on 10/16/2012. The email address associated with the album was listed as celticwolfirishdrgn@yahoo.com. "CELTICRDNCK" was found to have a password protected folder containing seven images of BAKER's naked ten year old niece.
9. On March 13, 2013, The Honorable Steven P. Shreder, United States Magistrate Judge, granted a search warrant for 22534 Mt. Pleasant Road, Howe, Oklahoma. The application for search warrant and search warrant are attached hereto as Exhibits 1 and 2, respectively.
10. During the execution of the search warrant at 22534 Mt. Pleasant Road, Howe, Oklahoma, on March 14, 2013, evidence containing several images and videos of child pornography was obtained.
11. During the execution of the search warrant, David Anthony BAKER waived his Miranda rights and chose to make statements and answer questions. During questioning, BAKER stated that he uses the email address irishdrgn@yahoo.com and provided password [reddragon77](#) or [reddragon69](#). BAKER stated that he also uses celticirishdrgn@gmail.com and provided password [medieval77](#).
12. BAKER stated that the only other person who had access to these accounts was his now ex-wife from 2007 to 2009 while he was in prison. When he got out, BAKER changed the password so that only he should have access to these accounts. BAKER stated he changed the passwords in 2009 or 2010.

13. BAKER stated that he gave his IMGSRG user ID and password, via email on his irishdrgn@yahoo.com account, to one or two people so they could view pictures of his naked 10 year old niece, Elizabeth, and download them if they wanted.
14. In return BAKER received pictures via email of minor females, ages 10 and up, either nude or in skimpy outfits.
15. BAKER was shown some photos that had been uploaded to a Flickr account associated with him. BAKER stated that he first opened his Flickr account in either 2005 or 2009 (due to being locked up during this time). BAKER stated that he has sole access to this account. His Flickr account is linked to his irishdrgn@yahoo.com account so he doesn't remember his Flickr account user ID and password but it can be accessed via his yahoo account with password "reddragon77". BAKER first denied uploading any child pornography to Flickr. When he was shown the pictures found on his Flickr page, BAKER admitted uploading all the images that were shown to him. BAKER stated that he believed most of the nude photos were of girls ranging from age 9-17 years old.
16. A physical search of BAKER's cellular telephone was conducted using a forensic extraction device. As a result, Yahoo Messenger on this phone was shown to be linked to Yahoo Messenger ID: "irishdrgn". The contacts were found to contain an entry for David BAKER, listing the home domain as "irishdrgn@yahoo.com" and the work domain as "celticirishdrgn@gmail.com".
17. Based on my training, experience and information provided to me by other law enforcement personnel, I know that:
 - a. The Internet is a worldwide network of computer systems operated by governmental entities, corporations, and universities. To access the Internet, an individual computer user must subscribe to an access provider, which operates a host computer system with direct access to the Internet. The World Wide Web ("www") is a functionality of the Internet which allows users of the Internet to share information.
 - b. Individuals who use the Internet can communicate with each other by using electronic mail, also known and referred to herein as "e-mail". E-mail is an electronic form of communication, which can contain letter-type correspondence and graphic images. E-mail is similar to conventional paper-type mail in that it is addressed from one individual to another. Many e-mail services, including Yahoo's e-mail, allow users to add "attachments" to an e-mail message. An "attachment" can be a text file, documents, images, or other type of media.

c. An e-mail message usually contains a header, which gives the screen or account name, the identity of the Internet access provider, and the return address on the Internet of the individual who originated the message or attachments. A user can access the Internet from a computer network or Internet Service Provider ("ISP") that connects to the Internet. An ISP assigns each user an Internet Protocol ("IP") address for the duration of the Internet session. Each IP address is unique.

d. Yahoo is a company that provides free web-based Internet e-mail access to the general public. Subscribers obtain an account by registering on the Internet with Yahoo. Yahoo subscribers are cross registered simultaneously with Yahoo Mail, Yahoo Chat/Messenger, Yahoo Groups, Yahoo Geocities, Domains, Web-hosting, and Stores, Yahoo Flickr, and Yahoo Profiles. Yahoo requests subscribers to provide basic information, such as name, gender, zip code and other personal/biographical information. However, Yahoo does not verify the information provided.

e. Yahoo maintains electronic records pertaining to the individuals and companies for which they maintain subscriber accounts. These records include account access information, e-mail transaction information, and account application information. Subscribers to Yahoo may access their accounts on servers maintained and/or owned by Yahoo from any computer connected to the Internet located anywhere in the world. Any e-mail that is sent to Yahoo subscriber is stored in the subscriber's "mailbox" on Yahoo's servers until the subscriber deletes the e-mail or the subscriber's mailbox exceeds the storage limits preset by Yahoo. If the message is not deleted by the subscriber, the account is below the maximum limit, and the subscriber accesses the account periodically, that message can remain on Yahoo's servers indefinitely.

f. When the Yahoo subscriber sends an e-mail, it is initiated at the user's computer, transferred via the Internet to Yahoo's servers, and then transmitted to its end destination. Yahoo users have the option of saving a copy of the e-mail sent. Unless the sender of the e-mail specifically deletes the e-mail from the Yahoo server, the e-mail can remain on the system indefinitely.

g. A Yahoo subscriber can also store files, including e-mails, address books, contact or buddy lists, pictures, text documents, and other files, on servers maintained and/or owned by Yahoo.

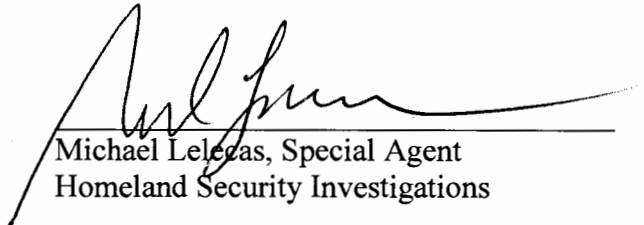
h. Files stored on a Yahoo server by a subscriber may not necessarily be located in the subscriber's home computer. The subscriber may store e-mails and/or other files on the Yahoo server for which there is insufficient storage space in the subscriber's computer and/or which he/she does not wish to maintain in the computer in his/her residence. A search of the files in the computer in the subscriber's residence will not necessarily uncover the files that the subscriber has stored on the Yahoo server.

- i. E-mail providers like Yahoo ask each of their subscribers to provide certain personal identifying information when registering for an e-mail account. This information can include the subscriber's full name, physical address, telephone numbers and other identifiers, alternative e-mail addresses, and, for paying subscribers, means and source of payment (including any credit or bank account number).
 - j. E-mail providers typically retain certain transactional information about the creation and use of each account on their systems. This information can include the date on which the account was created, the length of service, records of log-in (i.e., session) times and durations, the types of service utilized, the status of the account (including whether the account is inactive or closed), the methods used to connect to the account (such as logging into the account via Yahoo's website), and other log files that reflect usage of the account.
 - k. E-mail providers often have records of the Internet Protocol address ("IP address") used to register the account and the IP addresses associated with particular logins to the account. Because every device that connects to the Internet must use an IP address, IP address information can help to identify which computers or other devices were used to access the e-mail account.
 - l. In some cases, e-mail account users communicate directly with an e-mail service provider about issues relating to the account, such as technical problems, billing inquiries, or complaints from other users. E-mail providers typically retain records about such communications, including records of contacts between the user and the provider's support services, as well records of any actions taken by the provider or user as a result of the communications.
 - m. Evidence of who was using an e-mail account may be found in address books, contact or buddy lists, e-mail in the account, and attachments to e-mails, including pictures and files.
18. Based on the foregoing, I believe there is probable cause that:
- a. "irishdrn@yahoo.com" was used to facilitate the transmission of materials involving the sexual exploitation of minors.
 - b. "irishdrn@yahoo.com" was used to facilitate the distribution of child pornography.
 - c. Evidence, contraband, fruits, and instrumentalities of violations of Title 18, United States Code, Sections 2252(a)(2) - (knowingly receives, or distributes, any visual depiction, of a minor engaging in sexually explicit conduct, using any means or facility of interstate or foreign commerce) and 2252A - (knowingly receives or distributes any child pornography that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer), and other federal crimes will be found in the e-mail account "irishdrn@yahoo.com", more particularly described in Attachment A.

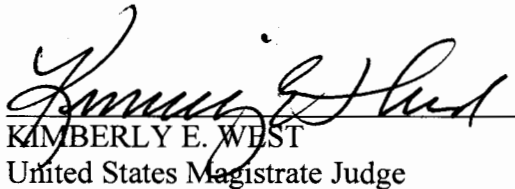
Based on the foregoing, I respectfully request a search warrant which will be executed¹ under the Electronic Communications Privacy Act. In particular, 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), to require Yahoo to disclose to the government copies of the records and other information (including the content of communications) described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

Based on the foregoing, I believe there is sufficient probable cause evidence of violations of Title 18, United States Code, Sections 2252(a)(2) and 2252A will be found in the Yahoo services.

Further your Affiant sayeth not.


Michael Lelecas, Special Agent
Homeland Security Investigations

Subscribed and sworn to before me on April 30th, 2013.


KIMBERLY E. WEST
United States Magistrate Judge

¹ Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant. accounts listed in this affidavit, including Yahoo e-mail, Yahoo Chat/Messenger, Yahoo Groups, Yahoo Geocities, Domains, Web-hosting, and Stores, Yahoo Flickr, Yahoo Profiles, and saved internet browsing, searching, and bookmark data.

ATTACHMENT A

DESCRIPTION OF PROPERTY TO BE SEARCHED:

This warrant applies to any and all information associated with the Yahoo! e-mail services user account `irishdrgn@yahoo.com` and related Yahoo! accounts/user names to include: `thekelticdruid77`, `tr4nquilltys_dr4g0n`, `celticwolfirishdrgn`, and `havocsdragon`, believed to be operated by DAVID ANTHONY BAKER, stored at premises owned, maintained, controlled, or operated by Yahoo! e-mail services. The location, property, and records to be searched are located at and described as: Yahoo! Inc. Legal Compliance Team, 701 First Avenue, Sunnyvale, California 94089, telephone number 408-349-3687, fax number 408-349-7941.

ATTACHMENT B

I. Information to be disclosed by YAHOO! Inc.

To the extent that the information described in Attachment A is within the possession, custody, or control of Yahoo, including any e-mails, records, files, logs, or information that have been deleted but are still available to Yahoo, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(t), Yahoo, is required to disclose the following information to the government for each account or identifier listed in Attachment A:

- a. The contents of all e-mails stored in the account, including stored or preserved copies of e-mails sent to and from the account, draft e-mails, the source and destination addresses associated with each e-mail, the date and time at which each e-mail was sent, and the size and length of each e-mail;
- b. All records or other information regarding the identification of the account, to include full name, physical address, telephone numbers and other identifiers, records of session times and durations, the date on which the account was created, the length of service, the types of service utilized, the IP address used to register the account, log-in IP addresses associated with session times and dates, account status, alternative e-mail addresses provided during registration, methods of connecting, log files, and means and source of payment (including any credit or bank account number);
- c. The contents and/or description of all uploaded and downloaded media, documents, and records, associated with the account's access to Yahoo Mail, Chat/Messenger, Groups, Geocities, Domains, Web-hosting, and Stores, Flickr, and Profiles.
- d. The contents of all historical browsing history associated with the account including, but not limited to, browsing history, search history, map searches, image searches, etc. Include the source and destination addresses associated with the websites visited, including the date and time visited;
- e. Types of services utilized;
- f. All records or other information stored by an individual using the account including address books, contact and buddy lists, pictures, and files;
- g. All content such as documents, calendars, or photos;

- h. All records pertaining to communications between Yahoo and any person regarding the account, including contacts with support services and records of actions taken (including any and all actions or attempted actions after receipt of the Preservation Letter).

II. Information to be seized by the Government

All records or information, described above in Section I that constitutes fruits, evidence and instrumentalities of violations of Title 18, United States Code, Sections 2252 (Certain activities relating to material involving the sexual exploitation of minors), 2252A (Certain activities relating to material constituting or containing child pornography), and other federal crimes, including but not limited to the contents of any and all wire and electronic communications, attachments, stored files, printouts, and header information since July 9, 2011 for the account or identifier listed on Attachment A, information pertaining to the following matters:

- a. Evidence of motive, intent, plan, preparation, knowledge, opportunity and actions to possess, receive or distribute child pornography using any means affecting interstate or foreign commerce.;
- b. Any communication regarding child pornography;
- c. Payments or any other benefits received in exchange for child pornography, and bank accounts or other financial information used in receiving benefits related to such items;
- d. E-mail communication with other child pornography recipients, collectors or distributors, evidencing the preparation, planning, conspiring, and conducting of child pornography related activities;
- e. Any communications with children believed to be under the age of eighteen years old;
- f. Records of internet history stored at or maintained by Yahoo, Inc., including web browsing data, internet searching, bookmarks, and cookies evidencing any involvement in violations of United States Code;
- g. Any contact lists of other child pornography recipients, collectors or distributors including names, aliases, e-mail accounts, and contact information;
- h. Any and all communications that will assist investigators in ascertaining the nature and scope of the crimes under investigation, the true identity and /or location of the subjects and other child pornography recipients, collectors or distributors; and
- i. Who created, used, or communicated with the account/identifier.